

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**October 26, 2009**

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Blease, Associate Justice; Robie, Associate Justice; Butz, Associate Justice; and Haskett, bailiff.

**C058001      ANTONIO GARCIA-SANCHEZ**

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Catherine Tennant Nieto, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:49 a.m., the court recessed. At 9:50 a.m., the court reconvened.

**C058958      MARINOS et al. v. CITY OF ROCKLIN**

Cause called. James Samuel Marinos argued for appellants. William E. Robinson argued and Russell A. Hildebrand appeared only for respondents City of Rocklin. William A. Munoz argued for respondents Raymond Boroski et al. Cause submitted.

**CONSOLIDATED WITH**

**C060844      MARINOS v. CITY OF ROCKLIN et al.**

Cause called. James Samuel Marinos argued for appellants. William E. Robinson argued and Russell A. Hildebrand appeared only for respondents City of Rocklin. William A. Munoz argued for respondents Raymond Boroski et al. Cause submitted.

At 10:20 a.m., the court recessed. At 10:20 a.m., the court reconvened.

**C057089      BROWN v. SCOTT**

Cause called. Alan S. Levin argued for appellant. Kathleen M. Abdallah argued and Thomas O. Perry appeared only for respondent. Cause submitted.

At 10:45 a.m., the court recessed. At 10:45 a.m., the court reconvened with Blease, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C058613      THE PEOPLE v. DANIEL AGUILAR et al.**

Cause called. Kenny N. Giffard argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondents. Cause submitted.

At 11:05 a.m., the court recessed. At 11:06 a.m., the court reconvened.

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**Court Minutes**

**October 26, 2009, Continued**

**C057688      M & M INSTALLATIONS, INC. v. COOK BROWN et al.**

Cause called. Karen Sarkissian argued for appellant. Kenneth E. Bacon argued and Steven A. Lewis appeared only for respondents. Cause submitted.

At 11:32 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C059661      In re the Marriage of JAYRAJ and BINDU NAIR  
NAIR v. NAIR**

Cause called. Stephanie J. Finelli argued for appellant. Sara B. Allman argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed. At 2:33 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C056222      TABAIE v. STOCKTON UNIFIED SCHOOL DISTRICT**

Cause called. Adam Blair Corren argued for appellant. Nancy A. Huneke argued for respondent. Cause submitted.

At 3:05 p.m., the court recessed. At 3:06 p.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C057498      BUCHANAN v. CAPITOL RACING, LLC, et al.**

Cause called. Douglas M. Campbell argued for appellant. R. Mac Prout argued for respondents. Cause submitted.

At 3:35 p.m., the court recessed. At 3:37 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakaye, Associate Justice.

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### October 26, 2009, Continued

**C059615 NELSON, as Trustee, etc. v. EXXON MOBIL CORPORATION**

Cause called. David A. Cheit argued for appellant. Jeffrey J. Parker and Whitney Jones Roy appeared only for respondent. Cause submitted.

**CONSOLIDATED WITH**

**C060271      COOK ENDEAVORS v. THE SUPERIOR COURT OF SACRAMENTO  
COUNTY; EXXON MOBIL CORPORATION**

Cause called. David A. Cheit argued for petitioner. David L. Schrader argued for real party in interest. Cause submitted.

At 4:09 p.m., the court recessed until 9:30 a.m., Monday, November 16, 2009.

**C058600      THE PEOPLE v.      (Not For Publication)**  
**DIANA GRANIER LATHAM**

The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Cantil-Sakauye, J.

**C058865      THE PEOPLE v.      (Not For Publication)**  
**JOSEPH HATHORNE NUCCIO**

Within 20 days of the filing of this opinion, the People may request modification of the sentence by vacating the one-year prison term enhancement... The judgment is otherwise affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.

Hull, J.

**C059007      THE PEOPLE v.      (Not For Publication)**  
**JOSEPH ANTHONY SINGLETON**

The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Cantil-Sakauye, J.

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**Court Minutes**

**October 26, 2009, Continued**

**C059064      THE PEOPLE ex rel. DEPARTMENT      (Certified For Partial Publication)  
OF TRANSPORTATION v.  
ACOSTA et el.**

The judgment is affirmed. Acosta is entitled to costs on appeal. ...

HULL, J.

We Concur:    Nicholson, Acting P.J.

Butz, J.

**C058411      MYERS v. TRENDWEST      (Certified For Partial Publication)  
RESORTS, INC.**

The judgment is affirmed. Trendwest shall recover its costs on appeal.

(Cal. Rules of Court, rule 8.278 (a) (1) & (2) . )

SIMS, Acting P.J.

We Concur:    Robie, J.

Cantil-Sakauye, J.

**C061260      In re M.T. et al.; SACRAMENTO COUNTY      (Not For Publication)  
DEPARTMENT OF HEALTH AND HUMAN  
SERVICES v. E.T.; R.C.**

The appeal is dismissed.

NICHOLSON, Acting P.J.

We Concur:    Robie, J.

Butz, J.

**October 27, 2009**

**C056044      THE PEOPLE v. JAMES DANIEL DEAN      (Not For Publication)**

The conviction and sentence for violation of section 266j are reversed.

The case is remanded to the trial court resentencing.

SCOTLAND, P.J.

I concur:      Hull, J.

I concur fully in the opinion but write separately to emphasize that when the trial judges tinker with approved CALCRIM instructions, they may be acting foolishly and risking reversal of the entire judgment.

Robie, J.

**C061202      THE PEOPLE v.      (Not For Publication)  
DEMETRIUS LEROY VERDUN**

The judgment is affirmed.

SCOTLAND, P.J.

We Concur:    Hull, J.

Cantil-Sakauye, J.

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**October 27, 2009, Continued**

- C058951      THE PEOPLE v.      (Not For Publication)**  
**FRANCISCO CLYDE TIDWELL**  
The judgment revoking defendant's probation and executing the  
previously imposed sentence is affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Robie, J.
- C059337      THE PEOPLE v.      (Not For Publication)**  
**JEFFREY EUGENE BELL**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
I concur: Nicholson, J.  
I concur in the result:  
Blease, Acting P.J.
- C059486      THE PEOPLE v.      (Not For Publication)**  
**CHRISTOPHER JOSEPH WATTS**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Cantil-Sakauye, J.
- C060449      THE PEOPLE v.      (Not For Publication)**  
**ROBERT LOUIS FIELD**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Hull, J.  
Cantil-Sakauye, J.
- C057166      HOLLYWOOD PARK LAND COMPANY,      (Certified For Publication)**  
**LLC, et al. v. GOLDEN STATE**  
**TRANSPORTATION FINANCING**  
**CORPORATION et al.**  
The appeal and the cross-appeal are dismissed. The parties shall bear  
their own costs on appeal.  
SCOTLAND, P.J.  
We Concur: Nicholson, J.  
Hull, J.

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**October 27, 2009, Continued**

- C058938      GERALD TOSTE et al. v.      (Not For Publication)**  
**THE SUPERIOR COURT OF EL DORADO**  
**COUNTY**  
The judgment (order of dismissal) is affirmed. Defendant Superior Court is awarded its costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) & (2) . )  
BUTZ, J.  
We Concur: Blease, Acting P.J.  
Nicholson, J.
- C061230      In re C.C.; THE PEOPLE v. C.C.      (Certified For Partial Publication)**  
The judgment is reversed for lack of evidence.  
CANTIL-SAKAUYE, J.  
We Concur: Blease, Acting P.J.  
Robie, J.
- C060371      THE PEOPLE v. JAISEN LEE HENNING      (Certified For Publication)**  
**THE COURT:**  
It is ordered that the opinion filed herein on October 14, 2009, be modified...  
This modification does not change the judgment.  
BLEASE, Acting P.J.  
Sims, J.  
Robie, J.

**October 28, 2009**

- C055782      THE PEOPLE v. CARLOS FOSTER      (Not For Publication)**  
The judgment is affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C059441      THE PEOPLE v.      (Not For Publication)**  
**DENNIS BRIAN SHEEHAN**  
The judgment is affirmed.  
HULL, Acting P.J.  
We Concur: Robie, J.  
Butz, J.

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**Court Minutes**

**October 28, 2009, Continued**

**C059806      THE PEOPLE v.      (Not For Publication)  
NATHANIEL D'ARINGTON EDWARDS**

The sentence on count 3 is stayed. The judgment is affirmed. The trial court shall prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections and Rehabilitation.

Butz, J.

I concur:      Hull, J.

I concur in the majority opinion. However, I think that appellant's argument that appellant (who had suffered three prior strikes and an additional serious felony conviction) suffered cruel or unusual punishment by a sentence of 13 years is frivolous. I do not think appellate counsel should be compensated with public funds for making this argument.

Sims, Acting P.J.

**C060419      THE PEOPLE v.      (Not For Publication)  
GRAHAM JOHN SNYDER**

The judgment is affirmed. The matter is remanded... The trial court is further directed to amend the abstract of judgment accordingly and to send a copy of the amended abstract to the Department of Corrections and Rehabilitation.

SCOTLAND, P.J.

We Concur:      Sims, J.

Butz, J.

**C061683      In re T.T.; SACRAMENTO COUNTY      (Not For Publication)  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. F.D.**

The orders of the juvenile court are affirmed.

HULL, J.

We Concur:      Scotland, P.J.

Cantil-Sakauye, J.

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**October 29, 2009**

**C054250      THE PEOPLE v.      (Certified For Partial Publication)  
JOSHUA DANIEL TUGGLES et al.**

As to defendant Joshua Daniel Tuggles, the judgment is affirmed.

As to defendant Tyrone Duwane Mollett, the probation report preparation fee of \$702 and the appointed counsel fee of \$2,440 are stricken. The trial court is directed to correct its minute order, to prepare an amended abstract of judgment reflecting this modification, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment as to Tyrone Duwane Mollett is affirmed.

SIMS, Acting P.J.

We Concur: Robie, J.

Butz, J.

**C058651      LANCASTER; GORSKI et al. v.      (Not For Publication)  
COUNY OF YOLO et al.**

The judgments are affirmed. Costs on appeal are awarded to defendants. (Cal. Rules of Court, rule 8.278 (a) (1) . )

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Butz, J.

**C061473      THE PEOPLE v.      (Not For Publication)  
RICHARD MAURICE ANDERSON, JR.**

The judgment is affirmed.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Raye, J.

**C062012      HAMILTON et al. v. WILLMS, Individually and as Executor, etc.  
BY THE COURT:**

Appellant's motion to recall the remittitur and to reinstate the appeal is granted. ...

Failure to comply with the conditions of this order will result in the immediate dismissal of the appeal without further warning.

RAYE, Acting P.J.



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**Court Minutes**

**October 30, 2009**

**C057089**

**BROWN v. SCOTT**

**(Not For Publication)**

The judgment is affirmed. Respondent Scott is awarded his costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) & (2) . )

BUTZ, J.

We Concur: Blease, Acting P.J.

Robie, J.